REMARKS

Claims 1-37 are pending in this application. Applicant appreciatively acknowledges the indication that claims 1-6 are allowed. By this Amendment, claims 7, 12, and 32 are amended to further clarify the recited subject matter. The above-indicated amendments are supported by the original disclosure and no new matter is added by these amendments.

Reconsideration in view of the above amendments and the following remarks is respectfully requested.

I. MATTERS OF FORM

A. CLAIM OBJECTIONS

The Office Action objected to claim 12 due to noted informalities regarding the antecedent basis for the term "the [fluid] diffusion pin". By this amendment, claim 12 is amended to depend from claim 11 and provide appropriate antecedent basis for the term "the fluid diffusion pin".

B. CLAIM REJECTIONS - 35 U.S.C. §112

The Office Action rejected claims 32 and 34 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. By this Amendment, claim 32 is amended to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. The amendment to claim 32 obviates any possible double inclusion issues in claim 34.

II. PRIOR ART REJECTIONS - 35 U.S.C. §102

A. CLAIMS 7, 9, 10, 13, 14, 18-21 AND 24-29 ARE PATENTABLE OVER PEARSE

The Office Action rejected claims 7, 9, 10, 13, 14, 18-21 and 24-29 under 35 U.S.C. §102(b) as being unpatentable over Pearse (U.S. Patent No. 2,745,697, hereinafter "Pearse"). The Applicant traverses the rejection because Pearse fails to teach or suggest all of the features recited in the rejected claims.

For example, Pearse fails to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized

fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

In contrast, Pearse discloses a floating fountain that includes a suction pump and a pump driving motor in the body of the floating fountain for taking in water from the body of water in which the fountain is floating. (See Col. 2, lines 57-70 of Pearse)

The floating fountain as described in Pearse, requires that a waterproof electric cable extend through a water sealing grommet in the floating fountain for providing electric current to various lights, motors, and a fan on the floating fountain. (See Col. 3, lines 6-11 of Pearse)

Pearse requires certain electrical elements be included in the body of the floating fountain, which requires that electric current be supplied to the body of the floating fountain. Therefore, Pearse fails to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

Therefore, Applicant respectfully submits that independent claim 7 is patentable over Pearse. Likewise, claims 9, 10, 13, 14, 18-21 and 24-29, which depend, either directly or indirectly, from independent claim 7, are also patentable over Pearse for the reasons discussed above plus the additional feature(s) they recite. Thus, claims 7, 9, 10, 13, 14, 18-21 and 24-29 are allowable and withdrawal of the rejection of these claims under 35 U.S.C. §102 is respectfully requested.

III. PRIOR ART REJECTIONS - 35 U.S.C. §103

A. CLAIMS 8, 15, 16, 22, AND 23 ARE PATENTABLE OVER PEARSE

The Office Action rejected claims 8, 15, 16, 22, and 23 under 35 U.S.C. §103(a) as being unpatentable over Pearse. The Applicant traverses the rejection because Pearse fails to teach or suggest all of the features recited in the rejected claims.

For example, as discussed above with respect to claims 7, 9, 10, 13, 14, 18-21 and 24-29, Pearse fails to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

In contrast, Pearse discloses a floating fountain that includes a suction pump and a pump driving motor in the body of the floating fountain for taking in water from the body of water in which the fountain is floating. (See Col. 2, lines 57-70 of Pearse)

The floating fountain as described in Pearse, requires that a waterproof electric cable extend through a water sealing grommet in the floating fountain for providing electric current to various lights, motors, and a fan on the floating fountain. (See Col. 3, lines 6-11 of Pearse)

Pearse requires certain electrical elements be included in the body of the floating fountain, which requires that electric current be supplied to the body of the floating fountain. Therefore, Pearse fails to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for

receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

Furthermore, as indicated in the Office Action, Pearse fails to teach or suggest a floating fountain having the disclosed shape of the base assembly, as recited in original claim 8, the pressure range and volume, as recited in original claims 15 and 16, or the type of fittings used for the nozzle members, as recited in original claims 22 and 23. Thus, Pearse fails to teach the claimed subject matter of original claims 8, 15, 16, 22, and 23.

Therefore, Applicant respectfully submits that claim 7 is patentable over Pearse. Likewise, dependent claims 8, 15, 16, 22, and 23, are also patentable over Pearse by virtue of their dependence, either directly or indirectly, from claim 7, for the reasons discussed above, and for the additional feature(s) they recite. Thus, claims 8, 15, 16, 22, and 23 are allowable and withdrawal of the rejection of these claims under 35 U.S.C. §103 is respectfully requested.

B. CLAIMS 11, 12, AND 17 ARE PATENTABLE OVER PEARSE IN VIEW OF RICHARDSON

The Office Action rejected claims 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over Pearse in view of Richardson (U.S. Patent No. 2,248,386, hereinafter "Richardson"). The Applicant traverses the rejection because the combined teachings of Pearse and Richardson fail to teach all of the features recited in the rejected claims.

For example, as discussed above with respect to claims 7, 9, 10, 13, 14, 18-21 and 24-29 and claims 8, 15, 16, 22, and 23, Pearse discloses a floating fountain that includes a suction pump and a pump driving motor in the body of the floating fountain for taking in water from the body of water in which the fountain is floating. (See Col. 2, lines 57-70 of Pearse)

The floating fountain as described in Pearse, requires that a waterproof electric cable extend through a water sealing grommet in the floating fountain for providing electric current to various lights, motors, and a fan on the floating fountain. (See Col. 3, lines 6-11 of Pearse)

Furthermore, as indicated in the Office Action, Pearse fails to teach or suggest a floating fountain wherein at least one of the nozzle members having a diffusion pin, as recited in original claims 11 and 12, or wherein the pressurized source of fluid is an irrigation system, as recited in

original claim 17. Thus, Pearse fails to teach the claimed subject matter of original claims 11, 12, and 17.

The inclusion of Richardson fails to overcome the deficiencies of Pearse. Richardson merely teaches a fountain constructed of a hollow float having a relatively large circular opening in its center. A bracket is attached to the opening for holding a threaded tube in a vertical position. The tube has a nozzle at one end and a coupling at the other end. (See Col. 2, lines 10-20 of Richardson)

Thus, the teachings of Richardson fail to teach or suggest the claimed features of the Floating Fountain, as recited in at least claim 7, and fail to overcome the deficiencies of Pearse.

Since the teachings of Richardson fail to overcome the deficiencies of Pearse, the teachings of Pearse and Richardson, either alone or in combination, fail to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

Thus, the teachings of Pearse and Richardson, either alone or in combination, fail to teach or suggest the subject matter of amended claim 7.

Therefore, Applicant respectfully submits that claim 7 is patentable over Pearse in view of Richardson. Likewise, dependent claims 11, 12, and 17, are also patentable over Pearse in view of Richardson by virtue of their dependence, either directly or indirectly, from claim 7, for the reasons discussed above, and for the additional feature(s) they recite. Thus, claims 11, 12, and 17 are allowable and withdrawal of the rejection of these claims under 35 U.S.C. §103 is respectfully requested.

C. CLAIMS 31-37 ARE PATENTABLE OVER PEARSE IN VIEW OF HUFFSTUTLER

The Office Action rejected claims 31-37 under 35 U.S.C. §103(a) as being unpatentable over Pearse in view of Huffstutler (U.S. Patent No. 5,273,214, hereinafter "Huffstutler"). The Applicant traverses the rejection because the combined teachings of Pearse and Huffstutler fail to teach all of the features recited in the rejected claims.

For example, as discussed above, Pearse fails to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

Furthermore, Pearse fails to teach or suggest a floating fountain, comprising "a pressurized source of fluid capable of providing a fluid at a pressure of between about 10 psi and about 130 psi, and a volume above about 30 GPM, wherein the pressurized source of fluid is located remote from the floating fountain; a tubular, hollow base assembly, wherein the base assembly includes, a tubular, hollow connection member, disposed for receiving pressurized fluid from the pressurized source of fluid and communicating the pressurized fluid to the base assembly; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid; an infinitely variable valve disposed between the pressurized source of fluid and the connection member, whereby the pressure at which the pressurized fluid enters the base assembly and is provided to each nozzle member is variable; and a float body affixed to a bottom side of the base assembly", as recited in amended claim 32.

In contrast, Pearse discloses a floating fountain that includes a suction pump and a pump driving motor in the body of the floating fountain for taking in water from the body of water in which the fountain is floating. (See Col. 2, lines 57-70 of Pearse)

The floating fountain as described in Pearse, requires that a waterproof electric cable extend through a water sealing grommet in the floating fountain for providing electric current to various lights, motors, and a fan on the floating fountain. (See Col. 3, lines 6-11 of Pearse)

Furthermore, as indicated in the Office Action, Pearse fails to teach or suggest a floating fountain that includes an infinitely variable valve between the pressurized source of fluid and the connection member, as recited in claims 31 and 32. Thus, Pearse fails to teach the claimed subject matter of claims 31 and 32.

The inclusion of Huffstutler fails to overcome the deficiencies of Pearse. Huffstutler merely teaches a cooling apparatus having a hollow, tubular base, with a tubular member extending upwardly therefrom. A fogging nozzle is mounted at an upper end of said tubular member and receives pressurized water and provides a fine fog of cooling water droplets. (See Abstract of Huffstutler)

Thus, the teachings of Huffstutler fail to teach or suggest the claimed features of the Floating Fountain, as recited in at least claims 7 and 32, and fail to overcome the deficiencies of Pearse.

Since the teachings of Huffstutler fail to overcome the deficiencies of Pearse, the teachings of Pearse and Huffstutler, either alone or in combination, fail to teach or suggest a floating fountain, comprising "a tubular, hollow base assembly; a tubular, hollow connection member, disposed for receiving pressurized fluid from a pressurized source of fluid and communicating the pressurized fluid to the base assembly, wherein the pressurized source of fluid is located remote from the floating fountain; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid", as recited in amended claim 7.

Likewise, the teachings of Pearse and Huffstutler, either alone or in combination, fail to teach or suggest a floating fountain, comprising "a pressurized source of fluid capable of

providing a fluid at a pressure of between about 10 psi and about 130 psi, and a volume above about 30 GPM, wherein the pressurized source of fluid is located remote from the floating fountain; a tubular, hollow base assembly, wherein the base assembly includes, a tubular, hollow connection member, disposed for receiving pressurized fluid from the pressurized source of fluid and communicating the pressurized fluid to the base assembly; a primary nozzle member, disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid that extends substantially upwardly from the plane created by the base assembly; and a plurality of secondary nozzle members, each secondary nozzle member being disposed for receiving pressurized fluid from the base assembly and providing a stream of fluid; an infinitely variable valve disposed between the pressurized source of fluid and the connection member, whereby the pressure at which the pressurized fluid enters the base assembly and is provided to each nozzle member is variable; and a float body affixed to a bottom side of the base assembly", as recited in amended claim 32.

Thus, the teachings of Pearse and Huffstutler, either alone or in combination, fail to teach or suggest the subject matter of amended claims 7 or 32.

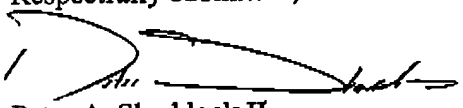
Therefore, Applicant respectfully submits that claims 7 and 32 are patentable over Pearse in view of Huffstutler. Likewise, dependent claims 31 and 33-37, are also patentable over Pearse in view of Huffstutler by virtue of their dependence, either directly or indirectly, from claims 7 and 32, for the reasons discussed above, and for the additional feature(s) they recite. Thus, claims 31-37 are allowable and withdrawal of the rejection of these claims under 35 U.S.C. §103 is respectfully requested.

CONCLUSION

Based on the foregoing amendments and remarks, Applicant respectfully submits that claims 7-37 are directed to allowable subject matter and that the application is in condition for allowance. Accordingly, prompt reconsideration and allowance of the application with these claims is respectfully requested.

However, if the Examiner believes there is anything further necessary to place this application in better condition for allowance, Applicant requests the Examiner telephone Applicant's undersigned representative at the number listed below.

Respectfully submitted,



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